

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No. 3:12-cv-0404-FDW-DSC

CENTER CAPITAL CORPORATION, n/k/a
WEBSTER CAPITAL FINANCE, INC.,

Plaintiff,

v.

APEX HOMES, INC. and LEONARD R.
WATTS,

Defendants.

ORDER CONTINUING HEARING

This matter came before the Court on August 6, 2012 at 2:00 p.m. upon Plaintiff's Motion for Claim and Delivery of property (Doc. No. 2) pursuant to Fed. R. Civ. P. 64 and N.C. Gen. Stat. § 1-472 to 1-484.1.

Plaintiff was represented at the hearing by Kenneth Lautenschlager of Johnston, Allison & Hord, P.A. and Defendants were represented by Jeffrey A. Long of Bray & Long, PLLC. The Parties represented to the Court that they had reached an agreement regarding the Motion ("Agreement") and requested that the Court continue the hearing to allow sufficient time for the Parties to complete the terms of the Agreement. The Parties further informed the Court that the terms of that Agreement include, but are not limited to the following:

A. Defendant, Apex Homes, Inc. ("Apex") shall have the airplane which is the subject of this action under a contract for purchase no later than August 17, 2012;

B. The closing on the sale shall take place no later than the end of business on September 10, 2012.

C. On or before August 8, 2012, Apex shall fully insure the plane as required under the

loan documents including, but not limit to, both ground and flight insurance and shall provide written proof of said insurance to Plaintiff;

D. On or before August 8, 2012, Defendants shall cause any and all log books related to the plane to be stored in a fireproof cabinet in the same location as the plane and said log books shall remain with the plane thereafter and will be made available for inspection by Plaintiff at Plaintiff's request;

E. On or before August 10, 2012, Defendants shall file with the FAA all documents necessary to bring the registration of the plane current and/or reinstate said registration and shall provide Plaintiff copies of such filings as well as acknowledgment of receipt by the FAA;

F. On or before August 17, 2012, Apex shall have moved the plane to a certified Cessna maintenance facility, with prior notice and approval of Plaintiff, for the purpose of completing the plane's annual inspection and all required maintenance. Such inspection and maintenance shall be completed no later than August 24, 2012 and shall be at Defendants' sole cost and expense. Written proof of completion of the work shall be provided to Plaintiff no later than August 24, 2012;

G. The Agreement, among other terms, also addresses pre-buy inspections, repair of any items needing repair as noted during the inspections, and limited flight testing in connection with the sale of the plane;

H. Should the Defendants breach any terms of the Agreement, or should the sale of the plane not occur as provided in the Agreement, Defendants agree and stipulate that Plaintiff shall be entitled to immediate possession of the plane and an order for claim and delivery;

I. Except as modified by the Agreement, the Order signed by the Court on July 2, 2012 (Doc. No. 10) and Notice of Hearing shall remain in full force and effect.

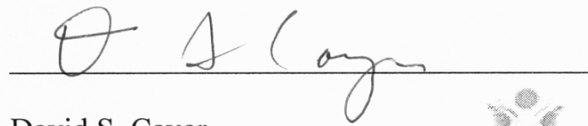
NOW, THEREFORE, having considered the presentation of counsel, it appears to the Court that an order continuing the Motion should be entered;

IT IS HEREBY ORDERED that:

- A. The Plaintiff's Motion for Claim and Delivery of Property be continued until such time as set by the Court;
- B. On or before September 5, 2012, the Parties shall file a status report updating the Court on the current status of the Motion and any need for a hearing.
- C. Except as modified by the Parties Agreement, the Order and Notice of Hearing signed by the Court on July 2, 2012 (Doc. No. 10) shall remain in full force and effect.

SO ORDERED.

Signed: August 7, 2012

A handwritten signature in black ink, appearing to read "D S Cayer", is written over a horizontal line.

David S. Cayer
United States Magistrate Judge

